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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/719,986

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EXAMINER

LEE, MICHAEL

ART UNIT

PAPER NUMBER

2622

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DELIVERY MODE

04/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/719,986	<b>Applicant(s)</b> TRINH ET AL.	
	<b>Examiner</b> M. Lee	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 16-49 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-27 of U.S. Patent No. 6,654,956. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 16-49 are generic to all that are recited in claims 1-27 of the patent. That is, claims 16-49 are anticipated by claims 1-27 of the patent. The following are examples how the claims of the instant application are met by the patent claims.

In considering claim 16, the demultiplexing step is met by the demultiplexing step in claim 1, the comparing step is met by the checking step as recited in claims 1 and 3,

the adjusting step is met by the adjusting step in claim 1, and the synchronizing step is met by the synchronizing step in claim 1.

In considering claim 17, it is met by claim 2.

In considering claims 18-20, the patent claim 2 specifies a periodic checking step but not the actual time intervals as claimed. Since the patent claim indicates the checking step is performed periodically, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to recognize that there will be some time intervals in between the checking operation. The selection of such interval would have been an obvious design choice.

In considering claims 21-22, the data format of the video and audio streams in patent claim 1 is intended to be MPEG format.

In considering claim 23, it is generic to the adjusting step as recited in claim 9.

In considering claim 24, the averaging step would have been obvious because the duplicated samples in claim 9 can be derived from an interpolation process, which is usually carried out by averaging neighbor samples.

In considering claim 25, it is generic to the adjusting step as recited in claim 8.

In considering claim 26, see claim 5.

In considering claim 27, see claim 6.

For claims 28-49, the apparatus invention and the article of manufacture invention are respectively rejected by the apparatus claims 10-15, and the computer program claims 16-24, with the similar reasonings as set forth above.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 16, 17, 21-23, 25-29, 33-35, 37-40, 44-46, 48 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Lankford et al. (5,430,485).

Regarding claim 16, Lankford discloses a video/audio receiver showing a demultiplexing step (202), a comparing step (col. 6, lines 10-31), an adjusting step (see Figures 5 and 6), and a synchronizing step (col. 7, lines 35-55).

Regarding claim 17, see col. 7, lines 65-66.

Regarding claims 21 and 22, Lankford operates in MPEG.

Regarding claims 23 and 25, see col. 6, lines 47-68.

Regarding claim 26, see PTS in Lankford.

Regarding claim 27, see audio and video decompressors 212 and 214.

Regarding claims 28, 29 and 33, see the corresponding rejections as recited above.

Regarding claim 34, Lankford inherently includes the first converter, the audio presentation device, the second converter, and the video presentation device as claimed (note col. 4, lines 32-36).

Regarding claims 35, 37, and 38, see the corresponding rejections as set forth above.

Regarding claims 39, 40, 44, 45, 46, 48 and 49, in addition above rejections, see the computer program list in Figure 4.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 18-20, 24, 30-32, 36, 41-43, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lankford et al. (5,430,485).

Regarding claims 18-20, 30-32, and 41-43, Lankford does not specify the actual values of the periodic intervals as claimed. However, Lankford does teach that the algorithm processing function is repeated for every occurrence of PTS. This is arbitrary because the function can be repeated at any occurrence of PTS so long the video and audio streams are properly synchronized. Thus, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to repeat the algorithm processing functions at any time interval to perform the well known functions as claimed. It would have been a matter of design choice.

Regarding claims 24, 36 and 47, Lankford does not specify the averaging step as claimed. In any event, it is well known in the art that a new sample can be generated by interpolating or averaging its surrounding samples. The averaging operation helps to

smooth the transition between samples. Hence, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to include an averaging step into Lankford so that the repeated samples could be made smooth.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suzuki (6,148,135) shows a video and audio synchronization controller.

Sung et al. (5,594,660) shows a programmable synchronizer.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Lee whose telephone number 571-272-7349. The examiner can normally be reached on Monday through Thursday from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz, can be reached on 571-272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/M. Lee/  
Primary Examiner  
Art Unit 2622